

PD-ABP-794
95648

"LESSONS LEARNED" DESK TOP EVALUATION

**Administration of Justice Project
No. 527-0303**

Prepared by:

Democratic Initiatives Division

Agency for International Development

June 1993

(Revised November 1994)

TABLE OF CONTENTS

I.	<u>INTRODUCTION</u>	1
II.	<u>PROJECT DESCRIPTION</u>	2
A.	DESIGN	2
1.	<u>ORIGINAL</u>	
a.	ACTIVITIES OR SUB-PROJECTS	2
b.	FUNDING	5
c.	MECHANISMS	6
2.	<u>POST-SEPTEMBER 1992</u>	6
B.	IMPLEMENTATION	7
1.	<u>ORIGINAL</u>	
a.	NATIONAL COMMISSION/COORDINATING OFFICE	7
b.	IMPLEMENTING ENTITIES	8
c.	AGENCY FOR INTERNATIONAL DEVELOPMENT	9
2.	<u>POST-SEPTEMBER 1992</u>	
III.	<u>PROJECT ACHIEVEMENTS</u>	9
A.	JUDICIAL BRANCH	10
B.	PUBLIC MINISTRY	10
C.	MINISTRY OF JUSTICE	11
IV.	<u>PROJECT ANALYSIS</u>	11
A.	ON THE DESIGN	11
B.	ON THE IMPLEMENTATION	12
1.	<u>ORIGINAL</u>	
a.	NATIONAL COMMISSION/COORDINATING OFFICE	12
b.	IMPLEMENTING ENTITIES	14
c.	AGENCY FOR INTERNATIONAL DEVELOPMENT	15
2.	<u>POST-SEPTEMBER 1992</u>	16
V.	<u>CONCLUSIONS AND RECOMMENDATIONS</u>	17
A.	CONCLUSIONS	17
B.	RECOMMENDATIONS	19

I. INTRODUCTION

On June 25, 1986, a Limited Scope Grant Agreement was signed with the Government of Peru that inaugurated the Administration of Justice Project (No. 527-0303), hereafter referred to as the AOJ Project or simply, the Project. The initial Project Assistance Completion Date (PACD) was December 31, 1987. The initial amount of the grant was US\$1 million; the counterpart contribution, generated from Title I PL 480 funds, added an additional \$1 million.

The Project was amended on six occasions during its eight and one-half year LOP. Project Amendment Number 1, dated August 31, 1987, increased the Project's funding, extended its PACD, and incorporated the Project's principal design document, the Project Paper. Amendments 2, 3, 5, and 6 were for the purposes of adding additional funding and/or extending the Project's PACD. The final amount of grant funding was US\$4,010,000, which included US\$500,000 directly managed by the Department of Justice's ICITAP program in Washington. The final amount of authorized counterpart funding was US\$2,500,000, although only \$2,371,168 of this total was expended prior to the Project's being declared ineligible under the new guidelines for the use of Title III. The final Project Amendment, Number 6 of April 28, 1994, extended the PACD to December 31, 1994.

Project Amendment Number 4, dated September 30, 1992, brought about the most significant change during the life of the Project. In addition to increasing Project funding and extending its PACD, it amended the original Project purpose, and simplified the original design of Project activities. Most importantly, however, Project Amendment Number 4 removed implementation responsibilities from the GOP beneficiary entities. As a consequence, the AOJ Project was implemented directly by A.I.D. during its last twenty-seven months.

II. PROJECT DESCRIPTION

A. DESIGN

1. ORIGINAL

The Project's initial purpose, as stated in the Grant Agreement, was to "cooperate with the Government of Peru and specifically the Judicial Power, Ministry of Justice, and the Public Ministry in financing a program of studies and pilot activities aimed at modernizing and strengthening the Peruvian justice system, to make it more efficient, effective, and to increase its accessibility to all Peruvian citizens." In order to achieve this, USAID supported the Peruvian Government's three major judicial sector institutions in the execution of a series of pilot activities, or sub-projects, with the objective of improving their technical, administrative and legal performance. The Judicial Power (Poder Judicial, which subsequently was translated as the Judicial Branch) consists of the court system; the Public Ministry is "semi-autonomous," and is led by the Attorney General, who directs Peru's public prosecutors; and the Ministry of Justice is the Executive Branch's representative in the sector.

a. ACTIVITIES OR SUB-PROJECTS

Consistent with the overall view of the project, twenty-three activities, or sub-projects, were created. Some had budgets as small as \$5,000. These sub-projects were executed within the framework of three implementing institutions, and consisted of eighteen divisions of institutional character and five of common or multi-institutional character. In order to establish the horizontal integration of all the sub-projects, five components, common to each institution, were established in the Project Paper that accompanied Project Amendment Number 1.

The following table illustrates the location, by institution and programmatic component, of each sub-project.

TABLE 1

ORIGINAL PROJECT ACTIVITIES, BY COMPONENT AND IMPLEMENTING INSTITUTION

(♦ = Institutional Sub-Project; ● = Common Sub-Project)

Institution (→) Component (↓)	Judicial Branch	Public Ministry	Ministry of Justice
Organizational	♦ Coordinating Office	♦ Coordinating Office	♦ Coordinating Office
Training and Professional Development	<ul style="list-style-type: none"> ♦ Professional Publications ● Special Training in Criminal Investigation ♦ Judicial Academy 	<ul style="list-style-type: none"> ♦ Professional Publications ● Special Training in Criminal Investigation ♦ Public Ministry Academy 	
Planning, Studies, and Modernization of Systems	<ul style="list-style-type: none"> ● Crime Prevention ● Sector Assessment ● Special Diagnostic ♦ Judicial Research Center ♦ Planning ● Information Management System 	<ul style="list-style-type: none"> ● Crime Prevention ● Sector Assessment ● Special Diagnostic ♦ People's Defender ♦ Planning ● Information Management System 	<ul style="list-style-type: none"> ● Crime Prevention ● Sector Assessment ● Special Diagnostic ♦ Center for Juridical Research ♦ Support to Victims ♦ Planning ● Information Management System
Outreach			<ul style="list-style-type: none"> ♦ Legal Information Offices ♦ Popular Libraries ♦ Training in Access to the System ♦ "Justice Houses"
Basic Equipment	♦ Goods and Services	♦ Goods and Services	♦ Goods and Services

Following is a brief description of these activities or sub-projects, listed under the five components, or sub-project category:

i. Organizational Component

◆ Coordinating Office -- The creation of a Coordinating Office for the Project to review and approve of the sub-projects, supervise their implementation, and to provide technical assistance for any redesign and adjustments of the Project.

ii. Training and Professional Development Component

◆ Professional Publications -- The publication and distribution of professional journals in the Judicial Branch and the Public Ministry.

● Special Training in Criminal Investigation -- The establishment of a series of short courses for judges and prosecutors.

◆ Judicial and Public Ministry Academies -- The development and implementation of training programs for judges and prosecutors.

iii. Planning, Studies, and Modernization of Procedures Component

● Crime Prevention -- Studies leading to a nationwide program of crime prevention.

● Sector Assessment -- A baseline study of the judicial sector, including an analysis of major problems and their causes.

● Special Diagnostic -- A study of procedures used in the formulation of legislation and in the coordination of judicial procedures, with an eye toward their simplification.

◆ Judicial Research Center -- A study of the integral reform of the Judicial Branch.

◆ People's Defender -- A study leading to the implementation of the Public Ministry's role as the People's Defender.

◆ Support to Victims -- A study aimed at setting up a program of assistance to victims of crime.

◆ Planning -- The improvement of the administrative functions of the Judicial Branch, the Public Ministry, and the Ministry of Justice.

◆ Center for Juridical Research -- The development of methodology for the revision of laws.

● Information Management System -- Support for the creation of an Electronic Judicial Data Center, linking the Ministry of Justice, the Public Ministry, and the Judicial Branch.

iv. Outreach

- ◆ Legal Information Offices -- The establishment of local offices to increase understanding and access to the judicial system among the poor.
- ◆ Popular Libraries -- The publication and distribution of documents to inform citizens' on their legally guaranteed rights.
- ◆ Training in Access to the System -- The development of professional training workshops and seminars on the new legal codes, the constitution, and human rights.
- ◆ "Justice Houses" -- The establishment of legal aid offices for the poor.

v. Basic Equipment Component

- ◆ Goods and Services -- To purchase and deliver furniture, computers, laboratory and communications equipment to enhance the operations of the implementing institutions.

b. FUNDING

The amounts of grant and counterpart funds initially committed to the Project were \$2 million, a total that was allocated as indicated below in Table 2. Annex D to the Limited Scope Grant Agreement illustrates the further division of these sub-totals into individual sub-project totals.

TABLE 2

INITIAL PROJECT BUDGET
(US dollars)

ELEMENT	A.I.D.	PL 480	TOTALS
COMMON SUB-PROJECTS	200,000	70,000	270,000
INSTITUTIONAL SUB-PROJECTS:			
Judicial Branch	185,000	65,000	250,000
Public Ministry	125,000	50,000	175,000
Ministry of Justice	180,000	460,000	640,000
OTHER ELEMENTS:			
Coordinating Office	190,000	10,000	200,000
Contingencies	120,000	--	120,000
To be Programmed	--	345,000	345,000
TOTAL	1,000,000	1,000,000	2,000,000

The grant resources were dispersed according to regulations established by USAID. Counterpart PL 480 funds were dispersed according to the Government of Peru's Public Administration regulations, including the scheduling and financial control of resources by the Ministry of Economy and Finances. Counterpart funds were from Title I, until its expiration at the end of the U.S. FY 91 (i.e. September 30, 1991); counterpart funds subsequently spent were from Title III.

c. MECHANISMS

i. Operating Plans and Project Implementation Letters

The Project's implementing institutions presented Annual Operating Plans, together with budgets, which reflected the programming of activities by the GOP, and allowed for the commitment of grant funds by USAID through the issuance of Project Implementation Letters (PILs). The PILs committed an initial amount in local currency, according to the budget presented by the implementing entity. The local currency amount could subsequently be increased, through an additional PIL, up to the initially approved total amount equivalent in dollars.

ii. Advances and Liquidations of Funds

The mechanism of providing advances and their subsequent liquidation through the documentation of expenses was established to control the flow of resources from USAID to the implementing institutions. In order to be able to receive grant funds, the institutions had to abide by all the regulations and utilize all the reporting documentation required by the Mission. This included presenting a request for funds to meet their monthly financial needs. This request was always made in terms of local currency, and had to be made according to the original budget. The presentation of requests for funds went through an internal approval process in USAID, then the funds were transferred by means of a check issued by the Regional Accounting Office in Mexico (RAMC/MEXICO).

2. POST-SEPTEMBER 1992

Grant Agreement Amendment Number 4, dated September 30, 1992, had a major impact on the Project's design and on its implementation. On the design side, the number of sub-projects was reduced from twenty-three to four -- Special Courts, Accusatorial System, Court Administration, and Policy Options -- where all activities realized in the GOP were funded. Grant funding was increased for the last time, from US \$2,850,000 to US \$ 3,510,000. Most importantly, however, was the transfer of the responsibility for Project implementation from the government beneficiary agencies (Judicial Branch, Public Ministry, and the Ministry of Justice) to A.I.D. The Project purpose was changed accordingly, to "support the GOP in developing programs to improve administrative, technical and legal performance of the principal institutions within Peru's judicial sector with particular, but not exclusive, emphasis on the area of criminal justice." Advance/liquidation implementation mechanisms remained unchanged.

Table 3 below represents a summary of the final Project budget, following numerous modifications via Project amendments. Note that, unlike the initial Project budget presented in Table 2, the modified budget contains lines for evaluation/audit and for (A.I.D.) administrative costs. Also note that the PL 480 figures represent real expenditures, while the A.I.D. figures are projected, as of September 30, 1994, to the PACD. Finally, it should be noted that this budget does not include the US \$500,000 transferred from USAID/Peru to the Department of Justice's ICITAP Program in FY 91. USAID/Peru Project Managers have an understanding that up to \$140,000 of this amount remained unspent at the PACD.

TABLE 3
MODIFIED PROJECT BUDGET
(US dollars)
As of September 30, 1994

ELEMENT	A.I.D.	PL 480	TOTALS
COMMON SUB-PROJECTS	67,010	80,000	147,010
INSTITUTIONAL SUB-PROJECTS:			
Judicial Branch	387,920	281,000	668,920
Public Ministry	355,857	492,000	847,857
Ministry of Justice	259,753	475,000	734,753
OTHER ELEMENTS:			
Coordinating Office	422,856	20,000	442,736
Training	41,767	--	41,736
Evaluation/Audit	160,883	--	148,883
Administrative Costs	746,074	--	716,074
Judicial Support-A.I.D.	1,067,880	1,023,168	2,057,349
END OF PROJECT TOTAL	3,510,000	2,371,168	5,881,168

B. IMPLEMENTATION

1. ORIGINAL

a. NATIONAL COMMISSION / COORDINATING OFFICE

i. National Commission

The establishment of the National Commission by the GOP was mandated in the Project Grant Agreement in order to "formulate policy for the Project," and was a Condition Precedent to Disbursement in the original 1986 Project Authorization. The National Commission consisted of the chiefs of the three implementing institutions: the President of the Supreme Court, for the Judicial Branch; the Attorney General, for the Public Ministry; and

the Minister of Justice, for the Ministry of Justice. It was conceived as the executive organ of the Project, which would spearhead the process of judicial reform in Peru, set priorities, and supervise the planning and implementation of the reform.

The idea of the National Commission was conceived in Washington and became an integral component of all AOJ Projects being developed in Latin America during the 1980s, as a means to give the host government "ownership" of the projects and to foster political will in favor of judicial reform throughout the region. The difficulties experienced with Peru's National Commission, described in section IV below, were in large part the result of flaws in its initial conception. These difficulties were not unique to Peru, but were also experienced by AOJ Projects elsewhere in Latin America.

The result of the multiple difficulties experienced from its inception, the National Commission never fulfilled its intended function and, in fact, met on no more than five occasions during the early years of the LOP, and ceased to function entirely after 1990.

ii. Coordinating Office

The Coordinating Office was, like the National Commission, mandated in the 1986 Project Grant Agreement, and its establishment was a Condition Precedent to Disbursement in the original Project Authorization. The Coordinating Office was defined in those documents as "the technical arm of the National Commission" and, as such, was designed to provide staff support to the National Commission in the design and execution of a program of justice sector reform.

The purpose of the Coordinating Office was defined in more detail in Project Amendment Number 1, dated August 31, 1987, a document that effectively served as the AOJ Project Paper. "The Coordinating Office," it states on page 41, "will provide technical assistance to the National Commission in its policy making functions and to the implementing agencies in the preparation and implementation of their institutional and sub-project plans. It will also serve as a channel between these entities and AID and will assist the agencies in familiarizing themselves and complying with AID regulations in conjunction with use of project funds. Where necessary, it will also serve as a liaison for purposes of the project between the implementing agencies and other GOP entities."

In its role as the "technical arm" of a body (the National Commission) that did not exist for all practical purposes, the Coordinating Office had little to keep it busy. During its four years of existence, its actual purpose was limited to assisting the GOP implementing agencies in the preparation and implementation of their institutional and sub-project plans and in complying with AID regulations in conjunction with use of project funds. In July 1990, AID closed the Coordinating Office and brought its most valuable employee to work directly with the AID Project Manager. PIL Number 95, dated March 1991, formalized this closure.

b. IMPLEMENTING ENTITIES

The Project Grant Agreement established that Project activities were implemented directly by the three government institutions participating in the project: the Judicial Branch, the Public Ministry and the Ministry of Justice. With the resources supplied by USAID, each institution was responsible for acquiring goods and contracting services in accordance with

its Annual Operating Plan. In doing so, each institution was subject to the regulations established by USAID with respect to the use of grant funds.

Each institution organized working groups under the direction of Project Coordinators in order to carry out all the technical and administrative tasks that were necessary to implement the Project activities. The Coordinators were in charge of a group of administrative officers who, in addition to their normal work as public officers, were required to support the execution of the additional activities entailed in the Project.

The US Department of Justice's ICITAP Program managed its own program in Peru between 1991 and 1994 with TDY personnel. It received logistical support, initially from the Embassy's Political Section, then from USAID/Peru after 1991. This Program in criminal investigation techniques, which consisted of training and a small technical assistance component, was initially aimed almost exclusively at personnel from the Peruvian National Police. USAID/Peru succeeded in re-focusing the ICITAP program toward the training of prosecutors, inter-institutional cooperation between police and prosecutors, and "human dignity" in police work.

c. AGENCY FOR INTERNATIONAL DEVELOPMENT

The Agency for International Development (A.I.D.) was responsible for Project design, monitoring and evaluation, and for the authorization and disbursement of grant funds as well as for the authorization of the use of counterpart funds under Public Law 480 (PL 480). A.I.D. resources to fulfill these tasks included one Project Manager and one Secretary and, beginning in 1991, a Project Coordinator and a Project Advisor as well. Approximately 20 percent of the time of one Project Accountant in the Office of the Controller was also dedicated to the Project.

The Project Grant Agreement established that A.I.D., together with the Coordinating Office would approve of the Annual Operating Plans of the GOP implementing entities. A.I.D. issued Project Implementation Letters (PILs) to the GOP in order to communicate this approval, as well as the designation of all new parties with implementation responsibilities for the Project, and all changes in the Project's design and/or budget. By November 1994, A.I.D. had issued no less than 124 PILs for the Project.

2. POST-SEPTEMBER 1992

The simplification of the Project's design, including the placing of all Project assistance being received by the GOP under one of four new Project activities within a single accounting rubric called "Judicial Support-A.I.D.," greatly simplified Project management, particularly with respect to the A.I.D.'s accounting system in the Office of the Controller. An even more consequential aspect of Project Amendment Number 4 was the movement of Project implementation from the GOP beneficiary institutions to A.I.D., which brought a more experienced technical team and better institutional support to the Project than it had experienced since the beginning of its LOP.

The improvement in Project implementation that resulted from Project Amendment Number 4 is evidenced by the increase in the average quarterly expenses, from approximately US \$ 84,000 between June 1986 and September 1992 to approximately US \$ 130,000 between October 1992 and September 1994.

III. PROJECT ACHIEVEMENTS

The following is a list of the principal achievements of the Project in each GOP institution. Following each item in parentheses are the years in which assistance was provided by the Project. In addition to those listed below, achievements of the Project that are not associated with a particular institution include the realization of a number of studies and seminars, including a Sector Assessment in 1991 and a conference on "Judicial Reform and the New Constitution" in 1993, which presented a number of recommendations for judicial reform that were subsequently incorporated into the 1993 Constitution.

A. JUDICIAL BRANCH

1. The creation of a Training Academy for Judges (Academia de la Magistratura), with 19 specialized courses to bring judges up-to-date on a variety of legal topics, and the provision of training for 545 judges (1987-1991);
2. The development of a plan for the rationalization and standardization of administrative processes in the criminal courts, and its application on a pilot basis in 8 of Lima's 47 criminal courts and in 2 of its 14 appellate courts (1990-1991);
3. The development and application of automated systems for the central administration of payroll, personnel, and finances (1990-1991);
4. The annual compilation and publication of laws generated by the Supreme Court (1988-1990);
5. The development of the Office of the Court Administrator (Gerencia General), and the provision of technical assistance during the first year of its implementation (1993-1994);
6. The preparation of two major sector assessments to analyze priorities for the modernization and reform of the judicial sector (1988, 1991).
7. The development of software for an integrated system of case-tracking and judicial information (1993-1994).

B. PUBLIC MINISTRY

1. The creation of a specialized Training Academy for Prosecutors (Academia del Ministerio Público), which implemented a total of 78 specialized courses, bringing a total of 1195 prosecutors up-to-date on a variety of legal topics (1988-1993);
2. The development of a plan for the rationalization and standardization of administrative processes in the offices of the criminal prosecutors, and its application in Lima's 47 Provincial Prosecutors' Offices, 14 Superior-level Prosecutors' Offices, and in the Supreme-level Prosecutors' Offices (1990-1991);

3. The organizational rationalization and restructuring of the entire Public Ministry, including the drafting of a new Organic Law and the first-ever academic assessment of the entire staff of 854 prosecutors at a national level (1992);
4. The establishment of a National Registry of Detainees (1992-1994);
5. The provision of seven 4-wheel-drive vehicles to Special Human Rights Prosecutors in the Emergency Zones (1993);
6. The development and implementation of an automated case-tracking system (RUDE) in all 47 of Lima's provincial-level prosecutors' offices (1991-1993).

C. MINISTRY OF JUSTICE

1. The creation of 31 legal aid offices, which provided a total of 105,000 free legal consultations on a variety of matters concerning child-support and other matters pertaining to family law, labor law, etc. (1988-1991);
2. The creation of a specialized legal library that has been consulted by legal advisors and consultants more than 1,500 times per year (1988-1991).

IV. PROJECT ANALYSIS

A. ON THE DESIGN

A document prepared by the officials from the Judicial Branch, the Public Ministry and the Ministry of Justice entitled "Strengthening of the Judicial System in Peru Project" served as a guide for the formulation of the Administration of Justice Project's original design. This document contained a large amount of information, more descriptive than analytical, of the problems in the Peruvian judicial system. However, it did not contain an integrated proposal of activities incorporated into a single viewpoint on the development of a project that would bring about judicial reform in Peru. As a result, the Project design was atomized into a number of distinct activities, with little effort to establish a relationship among them.

The initial Project design also created several additional problems. First of all, the amount of funds allotted to the Project was inadequate. With the number of activities or sub-projects (23 in total) approved for funding, the US \$1 million provided in grant funds and US \$1 million in counterpart PL 480 funds were not sufficient to cover all the tasks. This reflected A.I.D.'s disposition to satisfy the requirements presented by the Government of Peru but, at the same time, resulted in the existence of sub-projects funded at levels as low as US \$5,000, a figure that did not permit the development of a significant activity.

An internal evaluation following 30 months of Project implementation found that this atomization of the Project's design and the lack of proportionality between the large number of activities to be carried out and the small amount of funds assigned to the Project came about because A.I.D. lacked an overall strategy of its own to orient its work in the judicial

sector. The lack of a strategy was due to the fact that the administration of justice area was completely new to A.I.D. Similar efforts would be undertaken throughout much of Latin America, but the Peru Mission was one of the first to initiate a project.

Even more importantly, judicial reform had rarely been a matter of major concern to the Government of Peru. The most recent effort, undertaken by the military government during the mid-1970s, produced an impressive array of diagnostic studies of Peru's problems in the judicial sector, but nothing of consequence with respect to the implementation of institutional or procedural change. The lack of experience of both A.I.D. and the GOP in this vital and sensitive area, created a certain amount of misunderstanding, false expectations, and mistrust between the two governments.

The Project was designed, then, under a number of false assumptions. The plan to create a National Commission to orient and define the implementation policy of a bilateral Project was the result of an assumption that the Commission would be able to duly integrate its members, find a consensus in the overall interests and points of view of its members, as well as coordinate and regularize their performance. None of these objectives was reached, however, as a result of longstanding traditions among Peruvian judicial sector authorities that each institution maintain a permanent distance and a non-communicative attitude toward the others. They have usually had contradictory dispositions and points of view, with the Judicial Branch perceiving itself as distinctly superior to the others. In addition, the lengths of the terms of office of the leadership of the three institutions corresponded to different and often unanticipated periods of time. From its inception, these limitations prevented the Commission from acting as the entity to promote judicial reform that was anticipated in the Project's design.

Another false assumption was that the government institutions contained the organizational capacity, a capable staff, and the political will to attend to the complex requirements for the implementation of the Project. This design flaw led to painstakingly slow levels of implementation and an eventual recognition on the part of the GOP beneficiary entities themselves that they were incapable of implementing the Project efficiently. In September 1992, the GOP thus voluntarily transferred Project implementation responsibilities to A.I.D.

B. ON THE IMPLEMENTATION

1. ORIGINAL

a. NATIONAL COMMISSION/COORDINATING OFFICE

i. National Commission

The design flaw that perceived an inter-institutional GOP National Commission as the executive organ of the Project that would spearhead the process of judicial reform in Peru resulted in a perennial lack of leadership in the implementation of the Project. The National Commission failed to fulfill its leadership role from the outset of the Project's implementation. After meeting on no more than five occasions during the first four years of the LOP, the National Commission ceased to exist. An analysis of the failure of the National Commission leads to the following conclusions.

First of all, the Commission members lacked a strong mandate for judicial reform from the nation's political leadership under the presidency of Alan García Pérez. In addition, given the fervor of Peruvian nationalism and the less-than-warm state of bilateral relations during the initial years of Project implementation, there was a reluctance to accept the intervention of a foreign agent, such as USAID, as a promotor of judicial reform in Peru.

Secondly, the functioning of the National Commission was continually disrupted by changes in its composition. The term of office of the President of the Supreme Court was one year, that for the Attorney General was two years, and the hiring and firing of the Minister of Justice depended on the wishes of the President of the Republic. As a result, between 1986 and 1992, there were no less than six Presidents of the Supreme Court, five Attorneys General, and eight Ministers of Justice. Communication and coordination among the members of the Commission suffered drastically as a consequence of these continual changes in personnel.

Third, the Commission suffered from Peru's traditional lack of inter-institutional communication and coordination, characterized by poor relationships among the sector's institutions and their respective leaders. Political factions among the sectoral leadership prevented there being adequate cooperation among Commission members. In some cases, members could not even decide who was to attend their meetings.

ii. Coordinating Office

Given the fact that the National Commission never functioned as originally conceived, the Coordinating Office was left unable to fulfill its principal role, as designed, to be the "technical arm" of this executive body of the Project. Its principal function thus became the provision of technical assistance to the implementing agencies in the preparation and implementation of their institutional and sub-project plans, and in their compliance with USAID regulations in conjunction with use of project funds. The Coordinating Office lacked authority in Project implementation and in the use of resources that were assigned to and managed by the GOP implementing institutions, however, thus greatly limiting its influence with the participating institutional authorities.

The Project Evaluation conducted in 1990 found the staff of the Coordinating Office to be too large for its reduced role. The leadership of the Coordinating Office also lacked sufficient influence in the judicial community to undertake the promotion of reform. Its staff lawyers were neither well-known, nor were they specialists in the technical and administrative constraints on judicial reform. For this reason, their relationships with the sector's governmental authorities were characterized by subordination, and professional relationships with academic and professional research sectors were never established.

The Coordinating Office performed well, nonetheless, in the organization and training of the professional staffs of the implementing agencies. The Coordinating Office was also able to streamline many processes in Project implementation, and was effective in assisting in the preparation of Annual Operating Plans and the operative follow-ups of the sub-projects.

b. IMPLEMENTING ENTITIES

The Project's many procedures and regulations proved to be extremely time consuming. To cite one example: in order to prepare Annual Operating Plans of Project activities, each institution underwent a long internal process of preparation and approval, which lasted between eight and ten weeks. When added to the six-week period that A.I.D. required, on average, to approve the plans and issue the Project Implementation Letter authorizing expenditures, these delays had the effect of shortening the Project's life initially and at the beginning of each calendar year thereafter. Project implementation thus typically began in April or May of each year, which effectively cut off four-to five months of Project implementation at the beginning of each new year.

The Project's three governmental implementing institutions, the Judicial Branch, Ministry of Justice, and the Public Ministry, lacked both sufficient administrative instruments and adequate professional staff to duly manage the resources transferred by A.I.D. for the implementation of their own sub-projects. The implementing institutions' lack of trained personnel with knowledge of USAID's internal regulations frequently resulted in the presentation of incomplete documentation, which was then rejected by A.I.D.'s Office of the Controller, causing a delay in the advance of funds for the implementation of other activities, and so on, thus further slowing the pace of overall Project implementation.

An important reason for the lack of GOP personnel to implement the Project was that the institutions did not, in general, recognize the administration of the Project as a legitimate position worthy of the full attention of their employees. Thus the Project Coordinator was not paid for the extra work load undertaken on behalf of the Project, and was usually required to continue having his or her former responsibilities as a judge or prosecutor. This often led to the neglect of the Project's administrative requirements.

To make matters worse, between 1988 and 1990, the three governmental implementing institutions became subject to a highly limiting and complex series of austerity measures and regulations with respect to public expenditures as a result of the government's budget deficit and the severe economic crisis that Peru was suffering at the time.

USAID regulations required grant funds to be placed in special accounts opened by each implementing agency. Once the funds entered into the GOP agencies' accounting systems, their utilization became subject to the highly bureaucratic regulations and austerity measures pertaining to the Peruvian public sector. For example, the minimum period for an ordinary bidding process was forty-five days. In addition, there were restrictions on the contracting of staff, the acquisition of goods, and a multitude of other administrative requirements that, taken together, made any transaction very time consuming.

These problems were widely recognized, and a regulation in the Public Budget Law was therefore passed that exonerated the Project from the public sector's austerity norms. It was not until 1989, however, that this exoneration was achieved, and then it was only applied to the Judicial Branch.

Unfortunately, it was not possible to apply the same solution to the management of the PL 480 counterpart funds. Because the total resources generated by this financing source were deposited in the same bank account in which the public treasury funds for each institution were kept, it was impossible to determine the specific balances from each financing

source. Consequently, the PL 480 funds were mixed with the general public treasury funds, and all its associated bureaucratic red-tape.

The Public Ministry displayed a unique ability to overcome these significant bureaucratic hurdles. Because of the patience, flexibility, and willingness to learn among its personnel, it was able to make significant progress in its implementation abilities during the life of the Project. It was able to form a technical team that functioned efficiently and was knowledgeable about the Project and A.I.D.'s role in it, and the utilization of PL 480 counterpart resources. Two of the institution's greatest achievements were the development of an efficient administrative instrument in charge of training activities, and the establishment of a case-tracking system, known by its acronym RUDE. The success of these activities was closely linked to their making full use of both grant and counterpart resources that were authorized under their Annual Operating Plans.

Unfortunately, similar results were not seen in either the Judicial Branch or the Ministry of Justice. Although there was willing cooperation from many of their officials, the limitations in both institutions proved to be overwhelming. Annual implementation levels for each were, as a result, only a small fraction of the amounts authorized in their Operating Plans.

Finally, the near chaotic conditions that prevailed throughout the public sector at the end of the 1980s had a profound effect on the Project. A prolonged series of strikes and labor lockouts, particularly at the height of the hyperinflation between 1988 and 1990, continually interrupted work on the Project in all three implementing institutions. Between 1988 and 1990, furthermore, there was a law in force that offered incentives for public sector employees to resign. This law, designed to downsize the inefficient and financially bankrupt government bureaucracy, had the effect of encouraging the resignation of the most qualified individuals. By the early 1990s, public sector salaries and capabilities were both at a dismally low point.

With respect to the implementation of the ICITAP Program, there was universal praise for the quality of the training provided. Although annual budgets presented by ICITAP led USAID/Peru to believe that the cost of the ICITAP Program was excessive, no cumulative budget was ever presented that would allow a precise evaluation to be made.

c. AGENCY FOR INTERNATIONAL DEVELOPMENT

Bureaucratic delays by A.I.D. often proved devastating during the highly inflationary late 1980s. The extent of the annual delays by the GOP implementing entities in the presentation of their Operating Plans were nearly matched by A.I.D. in its preparation of the PIL to approve the Plans and authorize expenditures. One result of these delays was that the local currency amounts approved in the PIL often did not correspond to the dollar budgets presented in the Operating Plans. A.I.D. was then required to prepare a new PIL in order to authorize the full approved dollar amount in terms of local currency.

Six weeks was the average time it took A.I.D. to prepare a PIL, and also the average time between the presentation of a request for an advance from the GOP implementing entities and their receipt of a check. As a result, it became impossible for the GOP entities to maintain the purchasing value of their local currency funds. A.I.D. thus authorized the presentation of adjusted budgets by these institutions in accordance with monthly estimates of inflation. The inflationary process usually exceeded every statistical projection, however,

and thus the estimates seldom allowed the entities to fully recuperate their losses due to inflation.

The Project's design -- 23 sub-projects implemented by three different institutions -- led to the establishment of a very complicated and detailed accounting system by A.I.D.'s Office of the Controller. The implementing institutions lacked the human resources to produce financial control mechanisms that were adequate for A.I.D.'s requirements. Other by-products of this complex accounting system were difficulties for new A.I.D. personnel in monitoring the Project, and for the GOP implementing entities in the presentation of proper documentation for purposes of the Project audit. In addition, A.I.D. often encountered mistakes in the presentations of the GOP's submission of requests for advances and of liquidations. These implementing mechanisms thus created an inefficient control of the financial management by the implementing institutions, and required the permanent training and advising of the staff in charge.

2. POST-SEPTEMBER 1992

After September 1992, the Project changed considerably, permitting the fulfillment of activities that are many of the Project's most important achievements. This resulted in the connection of the Project with renowned Peruvian academic and research institutions, such as Lima's Catholic University (PUCP), Graduate School of Business Administration (ESAN), the Lima Bar Association, and consulting firms, such as Hansen-Holm and Apoyo S.A. It was also possible to obtain technical assistance from distinguished North American, Colombian, and Costa Rican professionals, as well as to enlist the cooperation of specialized organizations such as the National Center for State Courts, the United Nations Latin American Institute of Crime Prevention and the Treatment of Delinquents (ILANUD), and ICITAP and OPDAT from the United States Department of Justice.

The Project's new system of implementation resulted in more work for A.I.D. in the processing of documentation. The success of efforts to facilitate the internal administrative procedures and to speed up the implementation of the activities are reflected in the increased rate of Project implementation in terms of budget levels. Average quarterly grant expenditures increased some 50 percent, from approximately US \$ 84,000 between June 1986 and September 1992, to approximately US \$ 130,000 between October 1992 and September 1994. This increase in the rate of project implementation came at a cost, however. The A.I.D. Project Coordinator and Project Advisor, both paid with Project funds, spent a large amount of their time in Project implementation, thus leaving little time to provide the GOP with assistance in technical aspects of judicial reform.

The increase in the rate of implementation is much more impressive when two important factors are taken into consideration. First, numerous administration of justice activities between 1992 and 1994 were financed with PD&S funds (and thus do not figure in the quarterly implementation figures cited above). Among the activities financed with PD&S were the technical assistance for the reorganization of the Public Ministry and the implementation of the Office of the Court Administrator, and the first year of the development of the National Registry of Detainees.

Secondly, circumstances outside the control of AOJ Project Managers had a grave impact on the project during the last two years of its LOP. First of all, President Fujimori's "self-coup" on April 5, 1992 -- which saw the president shut down the judicial system for the

period of 30 days during which he renamed, using extra-constitutional procedures, more than two-thirds of the nation's judges and prosecutors -- brought an almost immediate suspension of bilateral Project assistance. Although this suspension was lifted in September 1992, when the situation in Peru's judicial sector had stabilized, it was well into 1993 before project implementation returned to "normal."

Additionally, the Clinton administration, which took office in January 1993, demonstrated a concern with human rights well beyond that of any other U.S. administration since the beginning of the Project. This general concern was manifested forcefully in Peru, which had a poor human rights record at the time, and particularly so in the Peruvian judicial system, which had become the object of concern of the now-powerful human rights NGO community in Washington following the establishment in Peru, through a series of 1992 decree laws, of closed military judicial proceedings for persons accused of terrorism.

Finally, the termination of USAID/Peru's Title I Program, the source of the PL 480 Counterpart funds that had been available to the Project since 1986, led to the termination of this important source of financing for the Project. At the beginning of fiscal year 1992, USAID/Peru's PL 480 Program switched to Title III, which restricted the use of its funds to programs directly related to food security. The ineligibility of the AOJ Project to use counterpart funds generated under Title III, due to these more rigid guidelines than those associated with the Title I Program, led to the Project's losing this source of almost half its financing after having spent not quite \$2.4 million of the \$2.5 million that had been authorized.

The loss of counterpart financing was particularly costly for the Project's efforts to develop an automated system of case-tracking in the Judicial Branch and the Public Ministry. This activity was developed with a vision of using counterpart funds to purchase hardware for the pilot implementation of this system in both institutions. When this source of funds subsequently became unavailable, it left the local contractor, lacking specifications for the hardware to be purchased, unable to program the software it had already developed, and it left the GOP institutions with no tangible benefits to show.

V. CONCLUSIONS AND RECOMMENDATIONS

A. CONCLUSIONS

1. The initial flaws in the Project design were the result of the lack of understanding of the process of judicial reform by both USAID and the GOP, and of the lack of a strategic plan within A.I.D. to orient it in setting the Project's goals, its size, and the use of its resources. Judicial reform was a new and extremely complex development concept that A.I.D. gradually learned during the course of the Project.

2. The Project also helped the GOP learn many lessons concerning the reform of the judicial sector. The Public Ministry benefitted most in this regard, while the Judicial Branch benefitted the least. The Ministry of Justice, which was in the forefront of judicial reform process during the final two years of the LOP, benefitted indirectly from the Project through its relationships with individuals and NGOs which, in turn, were close to the AOJ Project.

3. Toward the end of the LOP, judicial reform became a major topic of concern to the GOP, the Peruvian public, and other members of the international donor community, including the World Bank and the Inter-American Development Bank. The Project can take considerable credit for being the forerunner in the provision of assistance to a sector that is now widely recognized by the donor community as being a key component of sustainable development.

4. The principal achievements of the Project are those intangible results outlined in numbers 1-3 above. Its most important tangible achievements were the case-tracking system installed in the Public Ministry, the training programs developed in the Judicial Branch and the Public Ministry, and finally, the National Registry of Detainees, which remains under development in the Public Ministry and the Ministry of Interior.

5. The AOJ Project was "over-designed," i.e., its design was overly specific in the elaboration of its activities. This is due to the fact that the judicial sector is highly subject to the political concerns of the moment on the part of both the USG and the GOP. These particular concerns became embodied, both in the original Project design, and later in its amended design in September 1992. These intentions were often distinct from what the Project actually achieved, however. On the one hand, when interest in some specific concerns subsequently waned, they were never implemented. On the other hand, the Project was unable to respond when other specific concerns subsequently arose that were not a part of the Project's design. Some of the most interesting activities financed by USAID/Peru in the judicial sector after 1992 -- including the technical assistance for the reorganization of the Public Ministry and the implementation of the Office of the Court Administrator, and the first year of the development of the National Registry of Detainees -- were thus financed with PD&S rather than with Project funds. Efforts to measure long-term progress in Project implementation through EOPS lost their significance under such circumstances.

6. Successful management of the Project required a high level of organization, the fulfillment of numerous administrative processes, an in-depth understanding of the judicial system, and a prolonged political commitment to judicial reform on the part of all parties involved. Lacking each of these to some extent, the implementation of the Project was slow and cumbersome, particularly during its initial phases.

7. The constant changes in the personnel within the GOP implementing institutions, together with staff reductions and repeated and prolonged periods of strikes, greatly limited the government institutions' ability to perform adequately in the implementation of Project activities.

8. Another problem was related to the highly conservative nature of the traditional aspects of the judicial sector. The GOP authorities involved in the Project were often unwilling to make necessary decisions that would have required compromise and change in their highly tradition-bound institutions. The requirement that the GOP officials charged with the implementation of the Project cooperate with one another clashed with further judicial sector traditions of inter-institutional competition and jealousy.

9. During the first six years of Project implementation, the benefitting institutions and the implementing institutions were one and the same. Nevertheless, the limited operational capacity of these GOP judicial sector institutions impeded their becoming effective agents of project implementation, so A.I.D. was forced to replace them during the

last two years of the Project's life. The pace of the Project's implementation increased significantly thereafter, when many of the Project's principal achievements were made.

B. RECOMMENDATIONS

1. The positive results yielded by the Administration of Justice Project, elaborated in Conclusions 1-4 above -- together with the ongoing interest in the theme of the administration of justice in USAID/Washington, USAID/Peru, and in the GOP -- all affirm that USAID/Peru should maintain a program of assistance to the sector in the foreseeable future.

2. The follow-on project should be designed in such a manner that it avoids the complexity of the AOJ Project design. The areas of focus should be closely related to one another, i.e., tied together in a specific objective. Outside such an objective, the project's design should be as flexible as possible, thus allowing for the insertion of new concerns that may arise during the LOP. In addition, care should be taken that monetary resources and time period are sufficient to allow a noteworthy measure of progress to be obtained.

3. The new project's activities should be concentrated in a few areas, such as court administration (systems for tracking records, judicial statistics, and general administrative support), judicial process (training in the new judicial codes, legal defense), and human rights (National Registry of Detainees, and Civic Education). The task requires time- and resource-intensive activities, using high-level technical assistance on a large scale. Nonetheless the project should be of short duration and remain focused on the achievement of a specific objective. Subjects relating to court administration should be limited to "pilot" activities developed in no more than four or five regional points throughout the country (e.g. Lima/Callao, Arequipa, Chiclayo, San Martín or Huánuco, and Huancayo or Cuzco). On the other hand, subjects relating to judicial process and human rights demand national attention, and thus should be developed nationwide, as well as being diverse and multi-disciplinary in nature.

4. A.I.D. should not continue to act as the implementing entity in any new project in the judicial sector. A.I.D.'s role should be to provide technical assistance in the monitoring of the financial and technical aspects of Project activities, to monitor the GOP's political will and institutional change within the judicial sector, and finally, to promote the involvement of other donors in the long and complex process of judicial reform in Peru.

5. A third entity should, therefore, be created in order to assume A.I.D.'s post-September 1992 role as project implementor. This organization, probably a local non-governmental organization as recommended by William Davis in his May 1992 study for USAID/Peru, should be made up of highly qualified and knowledgeable professionals in the problems of Peru's judicial sector. It should also have a measure of influence over other judicial sector institutions, and be capable of relating with the GOP in an authoritative manner.